

#35

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

Docket Number (Optional)  
08CN8781-7

First named inventor: Adedeji, et al.

Group Art Unit: 1714

Application Number: 09/167,286

Examiner: P. Szekely

Filed: October 7, 1998

Title: HIGH PERFORMANCE PLASTIC PALLETS

**FAX RECEIVED**

**JAN 17 2003**

**PETITIONS OFFICE**

Attention: Office of Petitions  
Assistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703)305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee -- required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay

**1. Petition fee**

- ☐ small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(l)).
- ☐ small entity statement enclosed herewith.
- ☐ small entity statement previously filed.
- ☒ other than small entity - fee \$ 110.00 (37 CFR 1.17(l)).

05/23/2003 CKHLDK 00000010 070862 09167286  
01 FC:1452 110.00 CH

**2. Reply and/or fee**

**A. The reply and/or fee to the above-noted Office action in**

the form of \_\_\_\_\_ an Amendment (identify the type of reply):

- ☐ has been filed previously on \_\_\_\_\_.
- ☒ is enclosed herewith.

**B. The issue fee of \$ \_\_\_\_\_**

- ☐ has been paid previously on \_\_\_\_\_.
- ☐ is enclosed herewith.

**[Page 1 of 3]**

Burden Hour Statement: This form is estimated to take 1.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

**3. Terminal disclaimer with disclaimer fee**

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming a period equivalent to the period of abandonment is enclosed herewith (see PTO/SB/63).

**4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.**

January 17, 2003

Date

Patricia A. DeSimone

Signature

Telephone

Number: ( 860 ) 286-2929

Patricia S. DeSimone

Typed or printed name

55 Griffin Road South

Address

Bloomfield, CT 06002

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☐ Small Entity Status Form

☒ Additional sheets containing statements establishing unavoidable delay

☒ Copy of Stamped Postcard

**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231.

☒ transmitted by facsimile on the date shown below to the Patent and Trademark Office at (703) 308-6916.

January 17, 2003

Date

Tracy A. Swett

Signature

Tracy A. Swett

Typed or printed name of person signing certificate

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants and  
by any other party who is presenting statements concerning the cause of delay.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or printed name

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply)

*(Please attach additional sheets if additional space is necessary)*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: ADEDEJI ET AL. )  
Serial No.: 09/167,286 ) Group Art Unit: 1714  
Filed: October 7, 1998 )  
For: HIGH PERFORMANCE PLASTIC ) Examiner: P. Szekely  
PALLETS )

Attn: Office of Petitions  
Assistant Commissioner for Patents  
Washington, D.C. 20231

FAX RECEIVED

JAN 17 2003

PETITIONS OFFICE

STATEMENT FOR PETITION FOR REVIVAL

Cantor Colburn LLP, outside counsel for General Electric (hereinafter GE; assignee of the above-mentioned application), respectfully petitions for revival of the above-identified application under 37 C.F.R. §1.137(a). The application went abandoned due to the non-response to the Office Action dated 2/14/02 (hereinafter Office Action) prepared by Examiner V. Hoke. Cantor Colburn LLP is confident that it can show that the entire delay from the due date for the Office Action until the filing of this petition was unavoidable.

On July 23, 2001 Cantor Colburn LLP mailed a Change of Correspondence Address form, accompanied by a Power of Attorney, changing the correspondence address of the above-mentioned application from GE to customer number 23413 (Cantor Colburn LLP). A postcard stamped by the PTO on July 25, 2001 acknowledged receipt of the Change in Correspondence Address form (see photocopy of postcard attached). As of this date, no correspondence regarding the present application has ever been received by Cantor Colburn LLP from the PTO.

It is standard practice at Cantor Colburn LLP for the docketing clerk to direct received mail to the appropriate administrative assistant. The administrative assistant enters any actions due and notes documents received in an electronic docketing system.

(08CN8764-7)

Once the information has been entered, the document is filed in the appropriate application. From the docketing system, monthly reports are prepared to monitor which cases have actions due and to ensure responses are timely filed. Had Cantor Colburn LLP received the Office Action, the standard protocol outlined previously would have been applied. The Office Action would have been responded to in a timely fashion and the application would not have gone abandoned.

With respect to the above-identified application, the Office Action that was not responded to and which resulted in the abandonment of the application is dated *over six months* from the receipt of the Change in Correspondence form at the PTO. When the Office Action was sent by the PTO, it was addressed and mailed to GE rather than to the address of Cantor Colburn LLP. Cantor Colburn LLP did not receive a copy of the Office Action, nor was its existence made known until a phone call from Examiner Szekely was received on 9/27/02 by a staff member of Cantor Colburn LLP. Examiner Szekely was calling to determine why the Office Action dated 2/14/02 was not responded to. In a telephonic interview on 9/30/02, Examiner Szekely informed Patricia DeSimone, a Cantor Colburn patent agent, that the application was going to go abandoned. A Notice of Abandonment was sent by Examiner Szekely on 10/4/02. Aware of the imminent receipt of the Notice of Abandonment, Cantor Colburn LLP searched for it in the incoming mail. In addition, GE was contacted by Cantor Colburn LLP on a regular basis to determine if they had received the Notice. Again the Notice was addressed and mailed to GE and not to Cantor Colburn LLP.

Wanting to dispose of the matter in a timely fashion, Cantor Colburn LLP prepared a response to the Office Action, as is required for the current petition. Due to the complexity of the rejections and objections of Examiner Hoke's Office Action, the response required considerable time. The Office Action contained 35 U.S.C 112, second paragraph rejections for numerous claims; objections to three claims under 37 C.F.R. 1.75(b); rejections for six claims under 35 U.S.C 102(b); and numerous 35 U.S.C 103(a) rejections based on twelve references. To adequately respond to all of the rejections and objections, considerable time was expended between the time of abandonment and the filing of this petition.

THE STAMP OF THE PATENT OFFICE, PLACED HEREON, ACKNOWLEDGES RECEIPT OF:

Attorney Docket No.: 8CN-8767 (GP2-0109)  
Date Mailed: July 23, 2001  
Applicant: ADEYINKA ADEDEJI, et al.  
Serial No.: 09/167,286  
Filed On: October 7, 1998  
For: HIGH PERFORMANCE PLASTIC PALLETS

\*\*\*\*\*  
Change of Correspondence Address (1 page); Associate Power of  
Attorney (1 page); Postcard.

Mailed to USPTO via First Class Mail on: July 23, 2001

Received in the USPTO on:



FAX RECEIVED

JAN 17 2003

PETITIONS OFFICE

(08CN8764-7)

Cantor Colburn LLP respectfully contends that if it had received mail directly from the PTO regarding the application, the application would not have gone abandoned. The PTO, unfortunately, continuously failed to send the correspondence to the correct address even after *over a year* had passed from the filing of the Change in Correspondence form. Therefore, the entire delay from the due date for the Office Action until the filing of this petition was unavoidable.

Considering that Cantor Colburn LLP was not aware of the Office Action until September of 2002 and the complexity of the Office Action required considerable time for a proper response, the entire delay in filing the required reply from the due date for the Office Action until the filing of a grantable petition under 37 C.F.R. §1.137(a) was unavoidable. Attached you will find a reply to the Office Action dated 2/14/02. Granting of the Petition to Revive is respectfully requested.

Please charge the petition fee of \$110.00 to Deposit Account No. 07-0862. If there are any additional charges with respect to this Petition or otherwise please charge them to Deposit Account No. 07-0862 maintained by Assignee.

Respectfully submitted,

CANTOR COLBURN LLP

By Patricia S. DeSimone  
Patricia S. DeSimone  
Registration No. 48,137

Roberta L. Pelletier  
Registration No. 46,372

Date: January 17, 2003  
CANTOR COLBURN LLP  
55 Griffin Road South  
Bloomfield, CT 06002  
Telephone (860) 286-2929  
Facsimile (860) 286-0115  
Customer No. 23413